



THE STATE OF UTAH  
OFFICE OF STATE ENGINEER  
SALT LAKE CITY  
January 3, 1964

WAYNE D. CRIDDLE  
STATE ENGINEER

Mr. J. Willis Moon  
Hanna, Utah

Mr. William Nye  
5537 South 4120 West  
Salt Lake City 18, Utah

Gentlemen:

RE: APPLICATIONS NOS. 7764, 8074, 28628,  
and 35043

This letter constitutes the State Engineer's decision with regard to Applications Nos. 28628 and 35043, and will also serve as an order for use of water under Certificated Applications Nos. 7764 and 8074.

Application No. 7764 covers the use of 0.5 cfs of water from Warm Spring (No. 1) diverted at a point N.  $41^{\circ}15'$  W. 1086 ft. from NW Corner Section 32, T1N, R8W USB&M.

Application No. 8074 covers the use of 0.2 cfs of water from Warm Spring (No. 1) at a point N.  $37^{\circ}30'$  W. 1180 ft. from SE Corner Section 30 T1N R8W USB&M.

Application No. 28628 seeks the right to appropriate 1.4 cfs of water from either or both of two springs at the same points as listed above.

Application No. 35043 seeks the right to appropriate 0.1 cfs of water from Warm Spring (No. 1) at the same point as given under Application No. 8074.

From our examination of the area in question, it appears that water arises in a series of springs or spring areas. The controversy stems from the fact that the lands of Nye are so situated that he is unable to get water onto the field to be irrigated by gravity flow except by raising the water level in the so-called Upper Spring. Because of this he has recently constructed an impoundment over this upper spring area to regulate and control the flow. Moon contends that this impoundment has placed a head of water over the spring hereby reducing its flow. He further contends that no use has been made of water on the Nye place under Application No. 8074 for many years causing the right to be forfeited.

It is our determination that the two points described in the four applications would cover diversions from the Upper Spring area only. There does not appear to be sufficient water in this source to meet the requirements of all applications. Mr. Moon's predecessor filed Application No. 7765 to use water from a lower spring, but this was allowed to lapse so that there is presently no right to divert water through Moon's lower ditch.

It is, therefore, ordered that Mr. Moon install a permanent water measuring weir and headgate of a type approved by this office at the head of his ditch. No water may be stored in the impoundment and diverted through the Nye ditch under Application No. 8074 until Mr. Moon is receiving 0.5 cfs of water at the head of his ditch under Application No. 7764.

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It is further ordered and Applications Nos. 22628 and 19043 are each hereby REJECTED, due to the lack of available unappropriated water in the upper spring area.

This decision is subject to the provisions of Section 73-3-14, Utah Code Annotated, 1953, which provides for plenary review by the filing of a civil action in the appropriate district court within sixty days from date hereof.

Yours truly,

Wayne D. Criddle  
WAYNE D. CRIDDLE, STATE ENGINEER

RKH:bps

CC: Mr. Leo Brady  
Duchesne River Commissioner  
County Courthouse  
Duchesne, Utah

CC: Distribution Department  
State Engineer's Office

CC: Mr. Benj. A. Chiarelli  
Hanna, Utah